

(S E R V E D)
(August 14, 2007)
(FEDERAL MARITIME COMMISSION)

FEDERAL MARITIME COMMISSION

Docket No. 07- 01

APM TERMINALS NORTH AMERICA, INC.

v.

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

v.

MAHER TERMINALS LLC

Notice of Filing of Third-Party Complaint

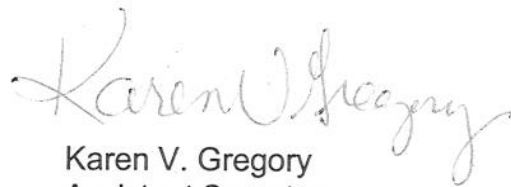
Notice is given that a Third-Party Complaint has been filed with the Federal Maritime Commission by the Port Authority of New York and New Jersey ("PANYNJ" or "Third-Party Complainant") against Maher Terminals LLC ("Maher" or "Third-Party Respondent"), a Marine Terminal Operator, in this proceeding noticed on January 17, 2007 (46 FR 1997). The Third-Party Complainant here, PANYNJ, is respondent in this

proceeding in which APM Terminals North American, Inc. ("APM" or "Complainant") asserts that PANYNJ has violated the Shipping Act of 1984 by failing to turnover a certain land parcel to APM. PANYNJ asserts that Maher is liable to it if PANYNJ is liable to APM.

Specifically, PANYNJ asserts that Maher violated Section 10(a)(3) of the Shipping Act (46 USC §41102(b)(2)) by failing to vacate certain lease premises as required by Lease EP-249 between PANYNJ and Maher. PANYNJ alleges that it was unable to meet its obligations to turn over marine terminal land designated in a lease it had with APM as a direct result of Third-Party Respondent's refusal to turn this land over as specified under the terms of its separate Lease EP-249. The Third-Party Complainant further alleges that Section 249 of Lease EP-249 between it and the Third-Party Respondent, specifically required Third-Party Respondent to turn over this land so that it could be delivered to AMP. The Third-Party Complainant further contends that Lease EP-249 required Maher: (1) to indemnify and hold harmless the Third-Party Complainant for any damages resulting from the Third-Party Respondent's failure to turn over the Added Premises in a timely manner and (2) to defend PANYNJ at Maher's sole expense for any claim arising out of its terminal operation. PANYNJ also contends that "any fair reading of leases EP-248 and EP-249 which were negotiated and entered into almost simultaneously reveals that the parties well knew that the Added Premises, then occupied by Maher, might not be handed over to AMP by December 31, 2007 . . . and that the leases contained provisions as to available remedies should that transfer

not occur on time.”

The PANYNJ prays that Maher be required to answer the changes in this Third-Party Complaint and that after appropriate process and procedure, Maher be order to pay reparation to PANYNJ in the amount of any damages and costs due to AMP as the result of the failure of PANYNJ to timely deliver the Added Premises and pursuant to 46 U.S.C. §41305(c) twice the amount of the reasonable fees, costs, and expenses incurred by PANYNJ in defending the AMP action.

A handwritten signature in cursive script, reading "Karen V. Gregory".

Karen V. Gregory
Assistant Secretary